

**UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
Trademark Trial and Appeal Board
2900 Crystal Drive
Arlington, Virginia 22202-3513**

CAB

Mail date: December 23, 2003

Opposition No. 91/154,347

In-N-Out Burgers

v.

**Tony Chachere's Creole Foods
of Opelousas, Inc.**

On October 22, 2003, opposer filed a motion requesting resumption of proceedings. Opposer also moved for judgment in its favor based on applicant's apparent loss of interest in this case.

Opposer's motion to resume is granted.

In support of its motion motion for judgment, opposer argues that, after applicant rejected opposer's most recent settlement offer, applicant's attorney informed opposer's attorney (in a telephone conversation on September 26, 2003) that applicant did not wish to make further expenditures with respect to the application that is the subject matter of this opposition. In addition, applicant's attorney indicated that applicant would not oppose a "Motion for default Judgment."

Opposer's motion for judgment is accompanied by a certificate of service on applicant's attorney dated October 20,

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2003. The record shows that applicant has not responded to opposer's motion. See Trademark Rule 2.127(a).

Accordingly, inasmuch as no response to opposer's motion for judgment in its favor based on applicant's loss of interest in the case has been received, judgment is hereby entered against applicant. The opposition is accordingly sustained and registration to applicant is refused.¹

***By the Trademark Trial
and Appeal Board***

¹ Any pending matters or motions are deemed moot in view of entry of judgment against applicant.